

ORIGINAL

1 ANDREW L. PACKARD (State Bar No. 168690)
 2 LAURIE A. MIKKELSEN (State Bar No. 260313)
 3 EMILY J. BRAND (State Bar No. 267564)
 4 Law Offices of Andrew L. Packard
 5 100 Petaluma Blvd. N., Suite 301
 6 Petaluma, CA 94952
 7 Tel: (707) 763-7227
 8 Fax: (707) 763-9227
 9 E-mail: Andrew@PackardLawOffices.com
 10 Emily@PackardLawOffices.com

11 Attorneys for Plaintiff
 12 CALIFORNIA SPORTFISHING
 13 PROTECTION ALLIANCE

DMR

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 CALIFORNIA SPORTFISHING
 17 PROTECTION ALLIANCE, a non-profit
 18 corporation,

19 Plaintiff,

20 vs.

21 SANTA ROSA STAINLESS STEEL
 22 FABRICATORS, INC., a California
 23 corporation,

24 Defendant.

Case No. **C 13 1415**

COMPLAINT FOR DECLARATORY
 AND INJUNCTIVE RELIEF AND CIVIL
 PENALTIES

(Federal Water Pollution Control Act,
 33 U.S.C. §§ 1251 to 1387; and, California
 Health & Safety Code § 25249.5 *et seq.*)

25 CALIFORNIA SPORTFISHING PROTECTION ALLIANCE ("CSPA"), by and
 26 through its counsel, hereby alleges:

27 **I. JURISDICTION AND VENUE**

28 1. This is a civil suit brought under the citizen suit enforcement provisions of the
 Federal Water Pollution Control Act, 33 U.S.C. Section 1251, *et seq.* (the "Clean Water Act"
 or "the Act") against Santa Rosa Stainless Steel Fabricators, Inc. (hereinafter "Defendant").

This Court has subject matter jurisdiction over the parties and the subject matter of this
 action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A), and 28 U.S.C.
 § 1331 (an action arising under the laws of the United States). The relief requested is

COMPLAINT

1 authorized pursuant to 28 U.S.C. § 2201-02 (power to issue declaratory relief in case of
2 actual controversy and further necessary relief based on such a declaration), 33 U.S.C. §§
3 1319(b), 1365(a) (injunctive relief), and 33 U.S.C. § 1319(d), 1365(a) (civil penalties).

4 2. On or about January 25, 2013, Plaintiff provided notice of Defendant's
5 violations of the Act ("CWA Notice Letter"), and of its intention to file suit against
6 Defendant, to the Administrator of the United States Environmental Protection Agency
7 ("EPA"); the Administrator of EPA Region IX; the Executive Director of the State Water
8 Resources Control Board ("State Board"); the Executive Officer of the Regional Water
9 Quality Control Board, Central Valley Region ("Regional Board"); and to Defendant, as
10 required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of CSPA's CWA
11 Notice Letter is attached as Exhibit A, and is incorporated by reference.

12 3. More than sixty days have passed since CSPA's CWA Notice Letter was
13 served on Defendant and the State and federal agencies. Plaintiff is informed and believes,
14 and thereupon alleges, that neither the EPA nor the State of California has commenced or is
15 diligently prosecuting a court action to redress the violations alleged in this complaint. This
16 action's claim for civil penalties is not barred by any prior administrative penalty under
17 Section 309(g) of the Act, 33 U.S.C. § 1319(g).

18 4. Venue is proper in the Northern District of California pursuant to Section
19 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located
20 within this judicial district. Pursuant to Local Rule 120(d), intra-district venue is proper in
21 San Francisco, California or Oakland, California because the source of the violations is
22 located within Sonoma County.

23 **II. INTRODUCTION**

24 5. This Complaint seeks relief for Defendant's discharges of pollutants from an
25 approximately 4-acre stainless steel tank manufacturing facility ("the Facility") owned
26 and/or operated by Defendant.

27 6. The Facility discharges storm water to the Sonoma County Municipal
28 Separate Storm Sewer System ("MS4"), which discharges into Windsor Creek, Mark West

1 Creek, the Russian River and ultimately into the Coastal Waters of the Pacific Ocean.

2 7. Defendant's discharges of pollutants from the Facility are in violation of the
3 Act and the State of California's General Industrial Permit for storm water discharges, State
4 Water Resources Control Board ("State Board") Water Quality Order No. 91-13-DWQ, as
5 amended by Water Quality Order No. 92-12-DWQ and Water Quality Order No. 97-03-
6 DWQ, National Pollutant Discharge Elimination System ("NPDES") General Permit No.
7 CAS000001 (hereinafter "General Permit" or "Permit"). Defendant's violations of the filing,
8 monitoring, reporting, discharge and management practice requirements, and other
9 procedural and substantive requirements of the General Permit and the Act are ongoing and
10 continuous.

11 8. The failure on the part of industrial facility operators such as Defendant to
12 comply with the General Permit is recognized as a significant cause of the continuing decline
13 in water quality of these receiving waters. The general consensus among regulatory agencies
14 and water quality specialists is that storm water pollution amounts to more than half the total
15 pollution entering the marine environment each year. With every rainfall event, hundreds of
16 thousands of gallons of polluted storm water originating from industrial facilities discharge
17 to Windsor Creek, Mark West Creek, the Russian River and ultimately into the Coastal
18 Waters of the Pacific Ocean.

19 **III. PARTIES**

20 9. Plaintiff CALIFORNIA SPORTFISHING PROTECTION ALLIANCE
21 ("CSPA") is a non-profit public benefit corporation organized under the laws of the State of
22 California with its main office in Stockton, California. CSPA has approximately 2,000
23 members who live, recreate and work in and around waters of the State of California,
24 including Windsor Creek, Mark West Creek, the Russian River and the Coastal Waters of
25 the Pacific Ocean. CSPA is dedicated to the preservation, protection, and defense of the
26 environment, and the wildlife and the natural resources of all waters of California. To
27 further these goals, CSPA actively seeks federal and state agency implementation of the Act
28 and other laws and, where necessary, directly initiates enforcement actions on behalf of itself

1 and its members.

2 10. Members of CSPA reside in California and use and enjoy California's
3 numerous rivers for recreation and other activities. Members of CSPA use and enjoy the
4 waters of Windsor Creek, Mark West Creek, the Russian River and the Coastal Waters of the
5 Pacific Ocean into which Defendant has caused, is causing, and will continue to cause,
6 pollutants to be discharged. Members of CSPA use these areas to fish, sail, boat, swim,
7 birdwatch, view wildlife and engage in scientific study, including monitoring activities,
8 among other things. Defendant's discharges of pollutants threaten or impair each of those
9 uses or contribute to such threats and impairments. Thus, the interests of CSPA's members
10 have been, are being, and will continue to be adversely affected by Defendant's ongoing
11 failure to comply with the Clean Water Act. The relief sought herein will redress the harms
12 to Plaintiff caused by Defendant's activities.

13 11. Continuing commission of the acts and omissions alleged above will
14 irreparably harm Plaintiff and the citizens of the State of California, for which harm they have
15 no plain, speedy or adequate remedy at law.

16 12. Plaintiff is informed and believes, and thereupon alleges, that Defendant is a
17 corporation organized under the laws of the State of California and that it owns and/or
18 operates the Facility.

19 20 **IV. STATUTORY BACKGROUND**

21 **Clean Water Act**

22 13. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any
23 pollutant into waters of the United States, unless such discharge is in compliance with
24 various enumerated sections of the Act. Among other things, Section 301(a) prohibits
25 discharges not authorized by, or in violation of, the terms of an NPDES permit issued
26 pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

27 14. Section 402(p) of the Act establishes a framework for regulating municipal
28 and industrial storm water discharges under the NPDES program. 33 U.S.C. §1342(p).

1 States with approved NPDES permit programs are authorized by Section 402(p) to regulate
2 industrial storm water discharges through individual permits issued to dischargers and/or
3 through the issuance of a single, statewide general permit applicable to all industrial storm
4 water dischargers. 33 U.S.C. § 1342.

5 15. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator of
6 the U.S. EPA has authorized California's State Board to issue NPDES permits including
7 general NPDES permits in California.

8 16. The State Board elected to issue a statewide general permit for industrial
9 discharges. The State Board issued the General Permit on or about November 19, 1991,
10 modified the General Permit on or about September 17, 1992, and reissued the General
11 Permit on or about April 17, 1997, pursuant to Section 402(p) of the Clean Water Act, 33
12 U.S.C. § 1342(p).

13 17. The General Permit contains certain absolute prohibitions. Discharge
14 Prohibition A(1) of the General Permit prohibits the direct or indirect discharge of materials
15 other than storm water ("non-storm water discharges"), which are not otherwise regulated by
16 an NPDES permit, to the waters of the United States. Discharge Prohibition A(2) of the
17 General Permit prohibits storm water discharges and authorized non-storm water discharges
18 that cause or threaten to cause pollution, contamination, or nuisance. Receiving Water
19 Limitation C(1) of the General Permit prohibits storm water discharges to any surface or
20 ground water that adversely impact human health or the environment. Receiving Water
21 Limitation C(2) of the General Permit prohibits storm water discharges that cause or
22 contribute to an exceedance of any applicable water quality standards contained in a
23 Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan.

24 18. In addition to absolute prohibitions, the General Permit contains a variety of
25 substantive and procedural requirements that dischargers must meet. Facilities discharging,
26 or having the potential to discharge, storm water associated with industrial activity that have
27 not obtained an individual NPDES permit must apply for coverage under the State's General
28 Permit by filing a Notice of Intent ("NOI"). The General Permit requires existing

1 dischargers to file their NOIs before March 30, 1992.

2 19. Effluent Limitation B(3) of the General Permit requires dischargers to reduce
3 or prevent pollutants in its storm water discharges through implementation of the Best
4 Available Technology Economically Achievable ("BAT") for toxic and nonconventional
5 pollutants and the Best Conventional Pollutant Control Technology ("BCT") for
6 conventional pollutants. BAT and BCT include both nonstructural and structural measures.
7 General Permit, Section A(8).

8 20. EPA has established Benchmark Levels as guidelines for determining
9 whether a facility discharging industrial storm water has implemented the requisite BAT and
10 BCT. 65 Fed. Reg. 64746, 64767 (Oct. 30, 2000). The following benchmarks have been
11 established for pollutants discharged by Defendant: pH – 6.0-9.0; total suspended solids –
12 100 mg/L; and oil & grease – 15.0 mg/L. The State Water Quality Control Board has
13 proposed adding a benchmark level for specific conductance of 200 μ mhos/cm.

14 21. Dischargers must develop and implement a Storm Water Pollution
15 Prevention Plan ("SWPPP") before October 1, 1992. The SWPPP must comply with the
16 BAT and BCT standards. (Section B(3)). The SWPPP must include, among other elements:
17 (1) a narrative description and summary of all industrial activity, potential sources of
18 pollutants and potential pollutants; (2) a site map showing facility boundaries, the storm
19 water conveyance system, associated points of discharge, direction of flow, areas of
20 industrial activities, and areas of actual and potential pollutant contact; (3) a description of
21 storm water management practices, best management practices ("BMPs") and preventive
22 maintenance undertaken to avoid storm water contamination that achieve BAT and BCT; (4)
23 the location where Significant Materials are being shipped, stored, received and handled, as
24 well as the typical quantities of such materials and the frequency with which they are
25 handled; (5) a description of potential pollutant sources including industrial processes,
26 material handling and storage areas, dust and particulate generating activities; (6) a summary
27 of storm water sampling points; (7) a description of individuals and their responsibilities for
28 developing and implementing the SWPPP (Permit, Section A(3)); (8) a description of

1 potential pollutant sources including industrial processes, material handling and storage
2 areas, and dust and particulate generating activities; (9) a description of significant spills and
3 leaks; (10) a list of all non-storm water discharges and their sources, and (11) a description
4 of locations where soil erosion may occur (Section A(6)). The SWPPP must also include an
5 assessment of potential pollutant sources at the Facility and a description of the BMPs to be
6 implemented at the Facility that will reduce or prevent pollutants in storm water discharges
7 and authorized non-storm water discharges, including structural BMPs where non-structural
8 BMPs are not effective (Section A(7), (8)).

9 22. The SWPPP must be re-evaluated annually to ensure effectiveness and must
10 be revised where necessary (Section A(9),(10)). Section C(3) of the General Permit requires
11 a discharger to prepare and submit a report to the Regional Board describing changes it will
12 make to its current BMPs in order to prevent or reduce any pollutant in its storm water
13 discharges that is causing or contributing to an exceedance of water quality standards. Once
14 approved by the Regional Board, the additional BMPs must be incorporated into the
15 Facility's SWPPP. The report must be submitted to the Regional Board no later than 60 days
16 from the date the discharger first learns that its discharge is causing or contributing to an
17 exceedance of an applicable water quality standard. Section C(4)(a). Section C(11)(d) of
18 the General Permit's Standard Provisions also requires dischargers to report any
19 noncompliance. *See also* Section E(6). Lastly, Section A(9) of the General Permit requires
20 an annual evaluation of storm water controls including the preparation of an evaluation
21 report and implementation of any additional measures in the SWPPP to respond to the
22 monitoring results and other inspection activities.

23 23. The General Permit requires dischargers to eliminate all non-storm water
24 discharges to storm water conveyance systems other than those specifically set forth in
25 Special Condition D(1)(a) of the General Permit and meeting each of the conditions set forth
26 in Special Condition D(1)(b).

27 24. The General Permit requires dischargers commencing industrial activities
28 before October 1, 1992 to develop and implement an adequate written Monitoring and

1 Reporting Program no later than October 1, 1992. Existing facilities covered under the
2 General Permit must implement all necessary revisions to their monitoring programs no later
3 than August 1, 1997.

4 25. The General Permit also requires dischargers to submit "Annual Reports" to
5 the Regional Board. As part of their monitoring program, dischargers must identify all storm
6 water discharge locations that produce a significant storm water discharge, evaluate the
7 effectiveness of BMPs in reducing pollutant loading, and evaluate whether pollution control
8 measures set out in the SWPPP are adequate and properly implemented. Dischargers must
9 then conduct visual observations of these discharge locations for at least one storm per
10 month during the wet season (October through May) and record their findings in their
11 Annual Report. Dischargers must also collect and analyze storm water samples from at least
12 two storms per year. Section B requires dischargers to sample and analyze during the wet
13 season for basic parameters such as pH, total suspended solids ("TSS"), specific
14 conductance, and total organic content ("TOC") or oil and grease, certain industry-specific
15 parameters, and toxic chemicals and other pollutants likely to be in the storm water
16 discharged from the facility. Additionally, Section B(5) and Table D of the General Permit
17 requires dischargers whose industrial activities fall within Standard Industrial Classification
18 ("SIC") Code 3499 to analyze their storm water discharge samples for zinc, iron, nitrate +
19 nitrite, and aluminum. Dischargers must also conduct dry season visual observations to
20 identify sources of non-storm water pollution. The monitoring and reporting program
21 requires dischargers to certify, based upon the annual site inspections, that the facility is in
22 compliance with the General Permit and report any non-compliance, and contains additional
23 requirements as well.

24 26. In order to discharge storm water lawfully in California, industrial
25 dischargers must comply with the terms of the General Permit or have obtained and
26 complied with an individual NPDES permit.

27 27. The term "discharge of pollutants" means "any addition of any pollutant to
28 navigable waters from any point source." 33 U.S.C. § 1362(12). Pollutants are defined to

1 include, among other examples, industrial waste, chemical wastes, biological materials, heat,
2 rock, and sand discharged into water. 33 U.S.C. § 1362(6).

3 28. A point source is defined as “any discernable, confined and discrete
4 conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . .
5 from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).

6 29. “Navigable waters” means “the waters of the United States.” 33 U.S.C. §
7 1362(7). Waters of the United States include tributaries to waters that are navigable in fact.
8 Waters of the United States include man-made water bodies that are tributary to waters that
9 are navigable in fact. Waters of the United States include ephemeral waters that are tributary
10 to waters that are navigable in fact.

11 30. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
12 enforcement actions against any “person,” including individuals, corporations, or
13 partnerships, for violations of NPDES permit requirements and for unpermitted discharges of
14 pollutants. 33 U.S.C. §§1365(a)(1) and (f), § 1362(5). An action for injunctive relief under
15 the Act is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an
16 assessment of civil penalties of up to \$32,500 per day for violations that occurred between
17 March 15, 2004 and January 12, 2009, and an assessment of civil penalties of up to \$37,500
18 per day for violations occurring after January 12, 2009, pursuant to Sections 309(d) and 505 of
19 the Act, 33 U.S.C. §§ 1319(d), 1365 and 40 C.F.R. §§ 19.1 - 19.4.

20 31. The Regional Board has established water quality standards for the Russian
21 River Hydrologic Unit and the Coastal Waters in the Water Quality Control Plan For The
22 North Coast Region, generally referred to as the Basin Plan.

23 32. The Basin Plan includes a narrative toxicity standard which states that “[a]ll
24 waters shall be maintained free of toxic substances in concentrations that are toxic to, or that
25 produce detrimental physiological responses in human, plant, animal, or aquatic life.”

26 33. The Basin Plan provides that “[w]ater designated for use as domestic or
27 municipal supply (MUN) shall not contain concentrations of chemical constituents in excess
28 of the limits specified in California Code of Regulations, Title 22, Chapter 15, Division 4,

1 Article 4, Section 64435 (Tables 2 and 3), and Section 64444.5 (Table 5), and listed in Table
2 3-2 of this Plan.” The waters of Mark West Creek and the Russian River have been
3 designated by the State Board for use as municipal and domestic supply.

4
5 **V. STATEMENT OF FACTS**

6 34. Defendant operates the Facility, an approximately 4-acre stainless steel tank
7 manufacturing facility located at 1400 Airport Blvd. in Santa Rosa, California. The Facility
8 discharges water to the Sonoma County Municipal Separate Storm Sewer System (“MS4”),
9 Windsor Creek, Mark West Creek, the Russian River, and ultimately into the Coastal Waters
10 of the Pacific Ocean.

11 35. The Facility is classified under SIC Code 3499 (“Fabricated Metal Products,
12 Not Elsewhere Classified”). Industrial activities occur throughout the Facility. The Facility
13 is primarily used to handle, store, manufacture and transport stainless steel tanks and tank-
14 related materials. Accordingly, the Facility receives, stores, and recycles stainless steel tank
15 and tank-related raw materials and parts. Other current industrial activities occurring at the
16 Facility include the use, storage, and maintenance of motorized vehicles and heavy
17 machinery. Many of these activities occur outside in areas that are exposed to storm water
18 and storm flows due to the lack of overhead coverage, functional berms and other storm
19 water controls. Plaintiff is informed and believes that Defendant’s storm water controls, to
20 the extent any exist, fail to achieve BAT and BCT standards.

21 36. The management practices at the Facility are inadequate to prevent the
22 sources of contamination described above from causing the discharge of pollutants to waters
23 of the United States and fail to meet BAT and BCT. The Facility lacks essential structural
24 controls such as grading, berming and roofing to prevent rainfall and storm water flows from
25 coming into contact with these and other sources of contaminants, thereby allowing storm
26 water to flow over and across these materials and become contaminated prior to leaving the
27 Facility. In addition, the Facility lacks structural controls to prevent the discharge of water
28 once contaminated. The Facility also lacks an adequate filtration system to treat water once

1 it is contaminated.

2 37. During rain events storm water laden with pollutants flows directly to the
3 Sonoma County Municipal Separate Storm Sewer System ("MS4"), Windsor Creek, Mark
4 West Creek, the Russian River, and ultimately into the Pacific Ocean.

5 38. Information available to Plaintiff indicates that as a result of these practices,
6 storm water containing pollutants harmful to fish, plant and bird life, and human health are
7 being discharged from the Facility directly to these waters during significant rain events.

8 39. Windsor Creek, Mark West Creek, the Russian River and the Coastal Waters
9 of the Pacific Ocean are waters of the United States.

10 40. Information available to Plaintiff indicates that Defendant has not fulfilled
11 the requirements set forth in the General Permit for discharges from the Facility due to the
12 continued discharge of contaminated storm water.

13 41. Plaintiff is informed and believes, and thereupon alleges, that Defendant has
14 failed to develop and implement an adequate Storm Water Pollution Prevention Plan.

15 42. Information available to Plaintiff indicates the continued existence of
16 unlawful storm water discharges at the Facility.

17 43. Plaintiff is informed and believes, and thereupon alleges, that Defendant has
18 failed to develop and implement adequate monitoring, reporting and sampling programs for
19 the Facility. Plaintiff is informed and believes, and thereupon alleges, that Defendant has not
20 sampled with adequate frequency, have not conducted visual monitoring, and have not
21 analyzed the samples collected for the required pollutant parameters.

22 44. Plaintiff is informed and believes, and thereupon alleges, that all of the
23 violations alleged in this Complaint are ongoing and continuous.

24 **VI. CLAIMS FOR RELIEF**

25 **FIRST CAUSE OF ACTION**

26 **Discharges of Contaminated Storm Water in Violation of Permit Conditions and the Act
(Violations of 33 U.S.C. §§ 1311(a), 1342)**

27 45. Plaintiff incorporates the allegations contained in the above paragraphs as
28 though fully set forth herein.

1 46. Discharge Prohibition A(2) of the General Permit requires that storm water
2 discharges and authorized non-storm water discharges shall not cause or threaten to cause
3 pollution, contamination, or nuisance. Receiving Water Limitations C(1) and C(2) of the
4 General Permit require that storm water discharges and authorized non-storm water discharges
5 shall not adversely impact human health or the environment, and shall not cause or contribute
6 to a violation of any water quality standards contained in a Statewide Water Quality Control
7 Plan or the applicable Regional Board's Basin Plan.

8 47. Plaintiff is informed and believes, and thereupon alleges, that since at least
9 October 1, 1992, Defendant has been discharging polluted storm water from the Facility to the
10 Sonoma County Municipal Separate Storm Sewer System ("MS4"), Windsor Creek, Mark
11 West Creek, the Russian River, and ultimately into the Coastal Waters of the Pacific Ocean
12 in violation of the General Permit.

13 48. During every significant rain event, storm water flowing over and through
14 materials at the Facility becomes contaminated with pollutants, flowing untreated from the
15 Facility to the Sonoma County MS4, Windsor Creek, Mark West Creek, the Russian River,
16 and ultimately into the Coastal Waters of the Pacific Ocean.

17 49. Plaintiff is informed and believes, and thereupon alleges, that these discharges
18 of contaminated storm water are causing pollution and contamination of the waters of the
19 United States in violation of Discharge Prohibition A(2) of the General Permit.

20 50. Plaintiff is informed and believes, and thereupon alleges, that these
21 discharges of contaminated storm water are adversely affecting human health and the
22 environment in violation of Receiving Water Limitation C(1) of the General Permit.

23 51. Plaintiff is informed and believes, and thereupon alleges, that these discharges
24 of contaminated storm water are contributing to the violation of the applicable water quality
25 standards in the Statewide Water Quality Control Plan and/or the applicable Regional Board's
26 Basin Plan in violation of Receiving Water Limitation C(2) of the General Permit.

27 52. Plaintiff is informed and believes, and thereupon alleges, that every day since
28 March 30, 1992, Defendant has discharged and continues to discharge polluted storm water

1 from the Facility in violation of the General Permit. Every day Defendant has discharged and
 2 continue to discharge polluted storm water from the Facility in violation of the General Permit
 3 is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These
 4 violations are ongoing and continuous.

5 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

6 **SECOND CAUSE OF ACTION**

7 **Failure to Develop and Implement an Adequate Storm Water Pollution Prevention Plan 8 (Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

9 53. Plaintiff incorporates the allegations contained in the above paragraphs as
 10 though fully set forth herein.

11 54. Section A and Provision E of the General Permit requires dischargers of
 12 storm water associated with industrial activity to develop and implement an adequate Storm
 13 Water Pollution Prevention Plan ("SWPPP") no later than October 1, 1992.

14 55. Defendant has failed to develop and implement an adequate SWPPP for the
 15 Facility. Defendant's ongoing failure to develop and implement an adequate SWPPP for the
 16 Facility is evidenced by, *inter alia*, Defendant's outdoor storage of industrial materials,
 17 including waste materials, without appropriate control measures; the continued exposure of
 18 significant quantities of industrial material to storm water flows; the failure to either treat
 19 storm water prior to discharge or to implement effective containment practices; and the
 20 continued discharge of storm water pollutants from the Facility at levels in excess of EPA
 21 benchmark values and other applicable water quality standards.

22 56. Defendant has further failed to update the Facility's SWPPP in response to the
 23 analytical results of the Facility's storm water monitoring as required by the General Permit.

24 57. Each day since October 1, 1992 that Defendant has failed to develop and
 25 implement an adequate SWPPP for the Facility in violation of the General Permit is a separate
 26 and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

27 58. Defendant has been in violation of the SWPPP requirement every day since
 28 October 1, 1992. Defendant continues to be in violation of the Act each day that they fail to
 develop and fully implement an adequate SWPPP for the Facility.

1 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

2 **THIRD CAUSE OF ACTION**

3 **Failure to Develop and Implement Best Available**
 4 **And Best Conventional Treatment Technologies**
 5 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

6 59. Plaintiff incorporates the allegations contained in the above paragraphs as
 7 though fully set forth herein.

8 60. The General Permit's SWPPP requirements and Effluent Limitation B(3)
 9 require dischargers to reduce or prevent pollutants in their storm water discharges through
 10 implementation of BAT for toxic and nonconventional pollutants and BCT for conventional
 11 pollutants.

12 61. Plaintiff is informed and believes, and thereupon alleges, that Defendant has
 13 failed to implement BAT and BCT at the Facility for its discharges of pollutants in violation
 14 of Effluent Limitation B(3) of the General Permit.

15 62. Each day since January 25, 2008 that Defendant has failed to develop and
 16 implement BAT and BCT in violation of the General Permit is a separate and distinct violation
 17 of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

18 63. Defendant has been in violation of the BAT and BCT requirements every day
 19 since at least January 25, 2008. Defendant continues to be in violation of the BAT and BCT
 20 requirements each day that it fails to develop and fully implement an adequate BAT and BCT
 21 for the Facility.

22 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

23 **FOURTH CAUSE OF ACTION**

24 **Failure to Develop and Implement an Adequate Monitoring and Reporting Program**
 25 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

26 64. Plaintiff incorporates the allegations contained in the above paragraphs as
 27 though fully set forth herein.

28 65. Section B of the General Permit requires dischargers of storm water associated
 with industrial activity to develop and implement a monitoring and reporting program
 (including, among other things, sampling and analysis of discharges) no later than October 1,

1 1992.

2 66. Defendant has failed to develop and implement an adequate monitoring and
3 reporting program for the Facility. Defendant's ongoing failures to develop and implement
4 adequate monitoring and reporting programs are evidenced by, *inter alia*, their continuing
5 failure to collect and analyze storm water samples from all discharge locations, their
6 continuing failure to analyze storm water samples for all toxic chemicals and other pollutants
7 likely to be present in the Facility's storm water discharges in significant quantities, and their
8 failure to file required Annual Reports with the Regional Board which provide required
9 information concerning the Facility's visual observations and storm water sampling and
10 analysis.

11 67. Each day since October 1, 1992 that Defendant's has failed to develop and
12 implement an adequate monitoring and reporting program for the Facility in violation of the
13 General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. §
14 1311(a). These violations are ongoing and continuous.

15 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

16
17 **VII. RELIEF REQUESTED**

18 Wherefore, Plaintiff respectfully requests that this Court grant the following relief:

19 a. Declare Defendant to have violated and to be in violation of the Act, as
20 alleged herein;

21 b. Enjoin Defendant from discharging pollutants from the Facility and to the
22 surface waters surrounding and downstream from the Facility;

23 c. Enjoin Defendant from further violating the substantive and procedural
24 requirements of the General Permit;

25 d. Order Defendant to immediately implement storm water pollution control
26 and treatment technologies and measures that are equivalent to BAT or BCT and prevent
27 pollutants in the Facility's storm water from contributing to violations of any water quality
28 standards;

1 e. Order Defendant to comply with the General Permit's monitoring and
2 reporting requirements, including ordering supplemental monitoring to compensate for past
3 monitoring violations;

4 f. Order Defendant to prepare a SWPPP consistent with the General Permit's
5 requirements and implement procedures to regularly review and update the SWPPP;

6 g. Order Defendant to provide Plaintiff with reports documenting the quality
7 and quantity of their discharges to waters of the United States and their efforts to comply with
8 the Act, the General Permit and the Court's orders;

9 h. Order Defendant to pay civil penalties of \$32,500 per day per violation for
10 all violations occurring after March 15, 2004, and \$37,500 per day per violation for all
11 violations occurring after January 12, 2009, for each violation of the Act pursuant to Sections
12 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d) and 1365(a) and 40 C.F.R. §§ 19.1 - 19.4
13 (pp. 200-202) (Dec. 31, 1996);

14 i. Order Defendant to take appropriate actions to restore the quality of
15 navigable waters and sources of drinking water impaired by their activities;

16 j. Award Plaintiffs' costs (including reasonable attorney, witness, and
17 consultant fees) as authorized by the Act, 33 U.S.C. § 1365(d); and,

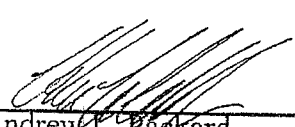
18 k. Award any such other and further relief as this Court may deem appropriate.
19

20 Dated: March 27, 2013

Respectfully Submitted,

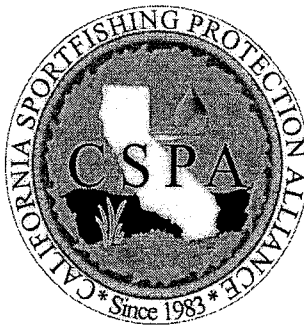
21 LAW OFFICES OF ANDREW L. PACKARD

22
23 By:



Andrew L. Packard
Attorneys for Plaintiff
CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE

EXHIBIT A



January 25, 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rod Ferronato, President
Nadine Lavell, Facility Operator Contact
Eddie Richards, Facility Contact
Santa Rosa Stainless Steel Fabricators, Inc.
1400 Airport Blvd.
Santa Rosa, CA 95403

Mark Ferronato, Agent for Service of Process and Facility Operator Contact
Santa Rosa Stainless Steel Fabricators, Inc.
1400 Airport Blvd.
Santa Rosa, CA 95403

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Messrs. Ferronato, Ferronato and Richards and Ms. Lavell:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at the Santa Rosa Stainless Steel Fabricators, Inc. ("SRSS") facility, located at 1400 Airport Blvd. in Santa Rosa, California ("the Facility"). The WDID identification number for the Facility is 149I010344. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection and defense of the environment, wildlife and natural resources of the Mark West Creek, the Russian River, the Sacramento-San Joaquin River Delta and other California waters and the Pacific Ocean. This letter is being sent to you as the responsible owner, officer, or operator of the Facility. Unless otherwise noted, Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell shall hereinafter be collectively referred to as SRSS.

This letter addresses SRSS's unlawful discharges of pollutants from the Facility

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to the Mark West Creek, which flows into the Russian River and eventually out to the Pacific Ocean. This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended by Order No. 97-03-DWQ ("General Permit" or "General Industrial Storm Water Permit").

Section 505(b) of the Clean Water Act provides that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen must give notice of intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("the EPA"), and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell are hereby placed on formal notice by CSPA that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, CSPA intends to file suit in federal court against Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more fully below.

I. Background.

SRSS owns and operates a stainless steel tank manufacturing facility located in Santa Rosa, California. The Facility falls under Standard Industrial Classification ("SIC") Code 3499 ("Fabricated Metal Products, Not Elsewhere Classified"). The Facility is primarily used to handle, store, manufacture and transport manufactured stainless steel tanks and tank parts. Other activities at the Facility include the use and storage of heavy machinery and motorized vehicles, including trucks used to haul materials to, from and within the Facility.

SRSS discharges storm water from its approximately 4-acre Facility through at least one (1) discharge point into the Mark West Creek, which flows into the Russian River and eventually out to the Pacific Ocean. The Delta and its tributaries are waters of the United States within the meaning of the Clean Water Act.

The North Coast Regional Water Quality Control Board ("Regional Board" or "Board") has established water quality standards for the Russian River in the "Water Quality Control Plan for the North Coast Region," generally referred to as the Basin Plan. The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life." For the

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Russian River, the Basin Plan establishes standards for several parameters. The Basin Plan states that "water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the limits . . . listed in Table 3-2 of this Plan," which lists lead in excess of 0.05 mg/L. *Id.* at 3-5.00. The Basin Plan also provides that "[t]he pH shall not be depressed below 6.5 nor raised above 8.5." *Id.* at 3-4.00. The Basin Plan also prohibits the discharges of oil and grease, stating that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses." *Id.* at 3-3.00.

The Basin Plan also provides that water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs). *Id.* at 3-11.00. The EPA has issued a recommended water quality criterion for aluminum for freshwater aquatic life protection of 0.087 mg/L. EPA has established a secondary MCL, consumer acceptance limit for aluminum of 0.05 mg/L to 0.2 mg/L. EPA has established a secondary MCL, consumer acceptance limit for zinc of 5.0 mg/L. EPA has established a primary MCL, consumer acceptance limit for the following: chromium – 0.1 mg/L; copper – 1.3 mg/L; and lead – 0.0 (zero) mg/L. *See* <http://www.epa.gov/safewater/mcl.html>. The California Department of Health Services has also established the following MCL, consumer acceptance levels: aluminum – 1 mg/L (primary) and 0.2 mg/L (secondary); chromium – 0.5 mg/L (primary); copper – 1.0 mg/L (secondary); iron – 0.3 mg/L; and zinc – 5.0 mg/L. *See* California Code of Regulations, title 22, §§ 64431, 64449.

EPA has also issued numeric receiving water limits for certain toxic pollutants in California surface waters, commonly known as the California Toxics Rule ("CTR"). 40 CFR § 131.38. The CTR establishes the following numeric limits for freshwater surface waters: arsenic – 0.34 mg/L (maximum concentration) and 0.150 mg/L (continuous concentration); chromium (III) – 0.550 mg/L (maximum concentration) and 0.180 mg/L (continuous concentration); copper – 0.013 mg/L (maximum concentration) and 0.009 mg/L (continuous concentration); lead – 0.065 mg/L (maximum concentration) and 0.0025 mg/L (continuous concentration).

The Regional Board has also identified waters of the Mark West Creek and Russian River as failing to meet water quality standards for sedimentation/siltation and temperature. *See* http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml. Discharges of listed pollutants into an impaired surface water may be deemed a "contribution" to the exceedance of CTR, a water quality standard, and may indicate a failure on the part of a discharger to implement adequate storm water pollution control measures. *See Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 375 F.3d 913, 918 (9th Cir. 2004); *see also Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 2005 WL 2001037 at *3, 5 (E.D. Cal., Aug. 19, 2005) (finding that a discharger covered by the General Industrial Storm Water Permit was "subject to effluent limitation as to certain pollutants, including zinc, lead, copper, aluminum and lead" under the CTR).

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The General Permit incorporates benchmark levels established by EPA as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). The following benchmarks have been established for pollutants likely discharged by SRSS: aluminum – 0.75 mg/L; iron – 1.0 mg/L; total suspended solids – 100.0 mg/L; nitrate + nitrite 0.68 mg/L; and zinc – 0.117 mg/L. The State Water Quality Control Board has also proposed adding a benchmark level for specific conductance, 200 µmhos/cm. Additional EPA benchmark levels have been established for other parameters that CSPA believes are being discharged from the Facility, including but not limited to, arsenic – 0.16854 mg/L; lead 0.0816 mg/L; magnesium – 0.0636 mg/L; manganese – 1.0 mg/L; mercury – 0.0024 mg/L; and nickel 1.417 mg/L.

II. SRSS Is Violating the Act by Discharging Pollutants From the Facility to Waters of the United States.

Under the Act, it is unlawful to discharge pollutants from a “point source” to navigable waters without obtaining and complying with a permit governing the quantity and quality of discharges. *Trustees for Alaska v. EPA*, 749 F.2d 549, 553 (9th Cir. 1984). Section 301(a) of the Clean Water Act prohibits “the discharge of any pollutants by any person . . .” except as in compliance with, among other sections of the Act, Section 402, the NPDES permitting requirements. 33 U.S.C. § 1311(a). The duty to apply for a permit extends to “[a]ny person who discharges or proposes to discharge pollutants. . . .” 40 C.F.R. § 122.30(a).

The term “discharge of pollutants” means “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). Pollutants are defined to include, among other examples, a variety of metals, chemical wastes, biological materials, heat, rock, and sand discharged into water. 33 U.S.C. § 1362(6). A point source is defined as “any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14). An industrial facility that discharges pollutants into a navigable water is subject to regulation as a “point source” under the Clean Water Act. *Comm. to Save Mokelumne River v. East Bay Mun. Util. Dist.*, 13 F.3d 305, 308 (9th Cir. 1993). “Navigable waters” means “the waters of the United States.” 33 U.S.C. § 1362(7). Navigable waters under the Act include man-made waterbodies and any tributaries or waters adjacent to other waters of the United States. *See Headwaters, Inc. v Talent Irrigation Dist.*, 243 F.3d 526, 533 (9th Cir. 2001).

The Mark West Creek, Russian River and its tributaries and the Pacific Ocean are waters of the United States. Accordingly, SRSS’s discharges of storm water containing pollutants from the Facility are discharges to waters of the United States.

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CSPA is informed and believes, and thereupon alleges, that SRSS has discharged and is discharging pollutants from the Facility to waters of the United States every day that there has been or will be any measurable flow of water from the Facility since January 25, 2008. Each discharge on each separate day is a separate violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These unlawful discharges are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, SRSS is subject to penalties for violations of the Act since January 25, 2008.

III. Pollutant Discharges in Violation of the NPDES Permit.

SRSS has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit such as the General Permit. 33 U.S.C. § 1342. The General Permit prohibits any discharges of storm water associated with industrial activities that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, Oil & Grease ("O&G"), pH, biochemical oxygen demand ("BOD"), and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

Further, Discharge Prohibition A(1) of the General Permit provides: "Except as allowed in Special Conditions (D.1.) of this General Permit, materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit." Special Conditions D(1) of the General Permit sets forth the conditions that must be met for any discharge of non-storm water to constitute an authorized non-storm water discharge.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan.

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Based on its review of available public documents, CSPA is informed and believes: (1) that SRSS continues to discharge pollutants in excess of benchmarks, (2) the SRSS continues to fail to sample for parameters required by the General Permit, and (3) that SRSS has failed to implement BMPs adequate to bring its discharge of these and other pollutants in compliance with the General Permit. SRSS's ongoing violations are discussed further below.

A. SRSS Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

SRSS has discharged and continues to discharge storm water with unacceptable levels of Total Suspended Solids (TSS) in violation of the General Permit. These high pollutant levels have been documented during significant rain events, including the rain events indicated in the table of rain data attached hereto as Attachment A. SRSS's Annual Reports and Sampling and Analysis Results confirm discharges of materials other than storm water and specific pollutants in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit:

1. Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentration in Excess of Applicable EPA Benchmark Value.

Date	Parameter	Concentration in Discharge	Benchmark Value
10/3/2011	TSS	300 mg/L	100 mg/L
3/12/2010	TSS	120 mg/L	100 mg/L

CSPA's investigation, including its review of SRSS's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of EPA's benchmark value for Total Suspended Solids (TSS) indicates that SRSS has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS) and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. SRSS was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. Thus, SRSS is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

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CSPA is informed and believes that SRSS has known that its storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least January 25, 2008. CSPA alleges that such violations also have occurred and will occur on other rain dates, including during every single significant rain event that has occurred since January 25, 2008, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that SRSS has discharged storm water containing impermissible levels of Total Suspended Solids (TSS) and other unmonitored pollutants (e.g. iron, aluminum, nitrate + nitrite, and zinc) in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any pollutants from the Facility without the implementation of BAT/BCT constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, SRSS is subject to penalties for violations of the General Permit and the Act since January 25, 2008.

B. SRSS Has Failed to Implement an Adequate Monitoring & Reporting Plan.

Section B of the General Industrial Storm Water Permit requires that dischargers develop and implement an adequate Monitoring and Reporting Plan by no later than October 1, 1992 or the start of operations. Sections B(3), B(4) and B(7) require that dischargers conduct regularly scheduled visual observations of non-storm water and storm water discharges from the Facility and to record and report such observations to the Regional Board. Section B(5)(a) of the General Permit requires that dischargers "shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season. All storm water discharge locations shall be sampled." Section B(5)(c)(i) further requires that the samples shall be analyzed for total suspended solids, pH, specific conductance, and total organic carbon. Oil and grease may be substituted for total organic carbon. Section B(5)(c)(ii) of the General Permit further requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Section B(10) of the General Permit provides that "facility operators shall explain how the facility's monitoring program will satisfy the monitoring program objectives of [General Permit] Section B.2."

Based on its investigation, CSPA is informed and believes that SRSS has failed to develop and implement an adequate Monitoring & Reporting Plan. First, based on its review of publicly available documents, CSPA is informed and believes that for the past five Wet Seasons, SRSS has failed to analyze samples for the pollutants required by the General Permit Table D in the storm water discharged from the Facility. Second, based on its review of publicly available documents, CSPA is informed and believes that SRSS

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has failed to collect storm water samples during at least two qualifying storms events, as defined by the General Permit, during the past five Wet Seasons. Third, based on its review of publicly available documents, CSPA is informed and believes that SRSS has failed to conduct the monthly visual monitoring of storm water discharges and the quarterly visual observations of unauthorized non-storm water discharges required under the General Permit during the past five Wet Seasons. Fourth, based on its review of publicly available documents, CSPA is informed and believes that for the past five Wet Seasons, SRSS has failed to analyze samples for other pollutants that are likely to be present in significant quantities in the storm water discharged from the Facility. Fifth and finally, based on its review of publicly available documents, CSPA is informed and believes that SRSS has failed to collect storm water samples from the first storm of the Wet Season that produced a discharge during scheduled Facility operating hours during the past five years. Each of these failures constitutes a separate and ongoing violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, SRSS is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since January 25, 2008. These violations are set forth in greater detail below:

1. SRSS Has Failed to Analyze Storm Water Samples During the Last Five Wet Seasons For the General Permit Table D Required Pollutants.

The General Permit Section B(5)(c) establishes sampling and analysis requirements. Section B(5)(c)(i) requires permit holders to sample for pH, Total Suspended Solids, Total Organic Carbon or Oil & Grease, and Specific Conductance. Further, Section B(5)(c)(ii) requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Finally, Section B(5)(c)(iii) requires permit holders to sample for "[o]ther analytical parameters as listed in Table D." This section establishes that "[t]hese parameters are dependent on the facility's standard industrial classification (SIC) code."

Table D requires facilities with SIC Code 3499 "Fabricated Metal Products, Not Elsewhere Classified" to sample for zinc, nitrate + nitrite, iron, and aluminum. As stated above, SRSS's SIC Code is 3499. Therefore, SRSS is required to sample for zinc, nitrate + nitrite, iron, and aluminum. As demonstrated by SRSS's annual reports filed for every Wet Season in the last five years (i.e., 2007-2008; 2008-2009; 2009-2010; 2010-2011; and 2011-2012 Wet Seasons), SRSS did not test for zinc, nitrate + nitrite, iron, and aluminum in any of the past five Wet Seasons. SRSS's failure to sample for zinc, nitrate + nitrite, iron, and aluminum constitutes separate and ongoing violations of the General Permit and the Act.

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2. SRSS Has Failed to Collect Storm Water Samples During at Least Two Rain Events In Each of the Last Five Wet Seasons.

Based on its review of publicly available documents, CSPA is informed and believes that SRSS has failed to collect storm water samples from all discharge points during at least two qualifying rain events at the Facility during the past five years, as required by the General Permit. For example, CSPA notes that the Annual Report filed by SRSS for the Facility for the 2010-2011 Wet Season SRSS failed to sample two storm events. Further, in the 2009-2010 Annual Report, SRSS reported that it analyzed samples of storm water discharged during two qualifying storm events, when in fact it did not sample from a single qualifying storm event that season.

SRSS reported in every Wet Season that it sampled in the last five years (i.e., 2007-2008; 2008-2009; 2009-2010; 2010-2011; and 2011-2012 Wet Seasons), that the Facility sampled the first storm of the season, when in fact it did not sample the first storm of the season during at least four of the last five Wet Seasons. For example, SRSS reported in its 2010-2011 Annual Report that it sampled the first storm of the Wet Season, but SRSS's first sample is from February 24, 2011. Based upon its review of publicly available rainfall data, CSPA is informed and believes that the first storm of the 2010-2011 Wet Season occurred as early as Friday, November 19, 2010, when 0.18" of rain fell on the Facility. Further, SRSS reported in its 2009-2010 Annual Report that it sampled the first storm of the Wet Season, but SRSS's first sample was taken on November 20, 2009. Based upon its review of publicly available rainfall data, CSPA is informed and believes that the first storm of the 2009-2010 Wet Season occurred as early as Tuesday, October 13, 2009, when 3.1" of rain fell on the Facility. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

3. SRSS Has Failed to Collect Storm Water Samples from Each Discharge Point During at Least Two Rain Events In the Last Five Wet Seasons.

Based on its review of publicly available documents, CSPA is informed and believes that SRSS has failed to collect storm water samples from all discharge points during at least two qualifying rain events at the Facility during each of the past five Wet Seasons. For example, CSPA notes that the Annual Report filed by SRSS for the Facility for the 2010-2011 Wet Season SRSS failed to sample two storm events. Further, based on its investigation, CSPA is informed and believes that storm water discharges from the Facility at points other than the one sampling/discharge point currently designated by SRSS. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

4. SRSS Has Failed to Conduct the Monthly Wet Season Observations of Storm Water Discharges Required by the General Permit.

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The General Permit requires dischargers to "visually observe storm water discharges from one storm event per month during the Wet Season (October 1 – May 30)." General Permit, Section B(4)(a). As evidenced by the lack of Facility personnel documenting their observation of qualified storm events on Form 4 Monthly Visual Observations contained in SRSS's annual reports for the last five Wet Seasons, CSPA is informed and believes that SRSS has failed to properly conduct this requirement of the General Permit.

Specifically, SRSS failed to conduct monthly visual observations of discharges from qualifying storm events for most months during any of the past five Wet Seasons. Instead, SRSS has either documented its visual observations of storm water that discharged during non-qualifying storm events or asserted that a qualifying storm never occurred at the Facility for most months during the entire Wet Season of each of the past five years (discussed further below). However, based on publicly available rainfall data, CSPA is informed and believes that there were many qualifying storm events during each of these Wet Seasons that SRSS could have observed. For example, SRSS reported in its 2011-2012 Annual Report that there were no discharges during business hours during the month of January 2012, when in fact, there was a qualifying storm event on January 19, 2012, during which it is likely that 0.91" of rain fell on the Facility. Further, SRSS reported in its 2010-2011 Annual Report that there were no discharges during the month of December 2010, when in fact, it rained 0.24" at the Facility on Tuesday, December 14, 2010. SRSS's failure to conduct this required monthly Wet Season visual monitoring extends back to at least January 25, 2008. SRSS's failure to conduct this required monthly Wet Season visual monitoring has caused and continues to cause multiple, separate and ongoing violations of the General Permit and the Act.

5. SRSS Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since January 25, 2008.

CSPA is informed and believes that publicly available documents demonstrate SRSS's consistent and ongoing failure to implement an adequate Monitoring Reporting Plan in violation of Section B of the General Permit. For example, while in its 2009-2010 Annual Report SRSS reported having collected samples of storm water discharged during two qualifying storm events. Based on publicly available rainfall data, CSPA is informed and believes that the storm event on March 12, 2010 could not possibly be a qualifying storm event because a qualifying storm event fell on the Facility three days before, on March 9, 2010, during which 0.22" of rain fell on the Facility. The likely qualifying storm event on March 9, 2010, likely invalidated the subsequent storm event three days later on March 12, 2010.

Additionally, SRSS is in violation of the General Permit's requirement that the testing method employed in laboratory analyses of pollutant concentrations present in storm water discharged from the Facility be "adequate to satisfy the objectives of the monitoring program." General Permit Section B.10.a.iii. The Regional Board has

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determined appropriate tests and detection limits that should be applied when testing for pollutant parameters. The laboratory employed by SRSS to analyze the storm water sample collected for both samples applied incorrect testing methods such as inappropriate tests and inappropriately high detection limits in every Annual Report filed for the last five Wet Seasons. For Oil & Grease, SRSS used the inappropriate test method of 5520B, instead of the appropriate method EPA 1664A. Further, for Oil & Grease, SRSS used an inappropriately high detection limit of 5.0 mg/L, instead of the appropriate detection level of 1.0 mg/L. Finally, SRSS failed to disclose the detection level for every analysis, excluding Oil & Grease, in every Annual Report filed for the last five Wet Seasons. Based on the sampling data reported, it is likely that SRSS used inappropriate testing analysis for all parameters it sampled over the last five years.

SRSS is in violation of the General Permit for failing to employ laboratory test methods and detection limits that are adequate to, among other things, "ensure that storm water discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in this General Permit." General Permit Section B.2.a. ("Monitoring Program Objectives"). Accordingly, consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, SRSS is subject to penalties for these violations of the General Permit and the Act since January 25, 2008.

C. SRSS Has Failed to Implement BAT and BCT.

Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). CSPA's investigation indicates that SRSS has not implemented BAT and BCT at the Facility for its discharges of Total Suspended Solids (TSS) and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Permit.

To meet the BAT/BCT requirement of the General Permit, SRSS must evaluate all pollutant sources at the Facility and implement the best structural and non-structural management practices economically achievable to reduce or prevent the discharge of pollutants from the Facility. Based on the limited information available regarding the internal structure of the Facility, CSPA believes that at a minimum SRSS must improve its housekeeping practices, store materials that act as pollutant sources under cover or in contained areas, treat storm water to reduce pollutants before discharge (e.g., with filters or treatment boxes), and/or prevent storm water discharge altogether. SRSS has failed to adequately implement such measures.

SRSS was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, SRSS has been in continuous violation of the BAT and BCT requirements every day since October 1, 1992, and will continue to be in violation every

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day that it fails to implement BAT and BCT. SRSS is subject to penalties for violations of the General Permit and the Act occurring since January 25, 2008.

D. SRSS Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

Section A(1) and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to Water Quality Order No. 97-03-DWQ to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 9, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must also include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9), (10)). Receiving Water Limitation C(3) of the Order requires that dischargers submit a report to the appropriate Regional Water Board that describes the BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce the discharge of any pollutants causing or contributing to the exceedance of water quality standards.

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January 25, 2013
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CSPA's investigation and review of publicly available documents regarding conditions at the Facility indicate that SRSS has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. SRSS has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Accordingly, SRSS has been in continuous violation of Section A(1) and Provision E(2) of the General Permit every day since October 1, 1992, and will continue to be in violation every day that it fails to develop and implement an effective SWPPP. SRSS is subject to penalties for violations of the Order and the Act occurring since January 25, 2008.

E. SRSS Has Failed to Address Discharges Contributing to Exceedances of Water Quality Standards.

Receiving Water Limitation C(3) requires a discharger to prepare and submit a report to the Regional Board describing changes it will make to its current BMPs in order to prevent or reduce the discharge of any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. Once approved by the Regional Board, the additional BMPs must be incorporated into the Facility's SWPPP. The report must be submitted to the Regional Board no later than 60-days from the date the discharger first learns that its discharge is causing or contributing to an exceedance of an applicable water quality standard. Receiving Water Limitation C(4)(a). Section C(11)(d) of the Permit's Standard Provisions also requires dischargers to report any noncompliance. *See also* Provision E(6). Lastly, Section A(9) of the Permit requires an annual evaluation of storm water controls including the preparation of an evaluation report and implementation of any additional measures in the SWPPP to respond to the monitoring results and other inspection activities.

As indicated above, SRSS is discharging elevated levels of Total Suspended Solids (TSS) and other unmonitored pollutants that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutant exceedances, SRSS was required to submit a report pursuant to Receiving Water Limitation C(4)(a) within 60-days of becoming aware of levels in its storm water exceeding the EPA Benchmarks and applicable water quality standards.

Based on CSPA's review of available documents, SRSS was aware of high levels of these pollutants prior to January 25, 2008. Likewise, SRSS has generally failed to file reports describing its noncompliance with the General Permit in violation of Section C(11)(d). Lastly, the SWPPP and accompanying BMPs do not appear to have been altered as a result of the annual evaluation required by Section A(9). SRSS has been in continuous violation of Receiving Water Limitation C(4)(a) and Sections C(11)(d) and A(9) of the General Permit every day since January 25, 2008, and will continue to be in violation every day it fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. SRSS is subject to penalties for violations of the General Permit and the Act occurring since January 25, 2008.

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F. SRSS Has Failed to File Timely, True and Correct Reports.

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

CSPA's investigation indicates that SRSS has submitted incomplete Annual Reports and purported to comply with the General Permit despite significant noncompliance at the Facility. For example, SRSS reported in every Annual Report filed for the past five Wet Seasons (i.e., 2007-2008; 2008-2009; 2009-2010; 2010-2011; and 2011-2012) that it observed the first storm of every Wet Season. However, as discussed above, based on CSPA's review of publicly available rainfall data, CSPA believes this cannot possibly be true.

Further, SRSS failed to comply with the monthly visual observations of storm water discharges requirement for every single Annual Report filed for the Facility for each of the last five years. In the last five Wet Seasons, SRSS rarely made more than two monthly visual observations of storm water discharges, out of the eight month Wet Season. In the 2011-2012 Annual Report, SRSS observed only one storm event, the same event that it sampled, and failed to observe discharge for any of the other seven months in the 2011-2012 Wet Season. However, based on publicly available rainfall data, CSPA is informed and believes that storm events produced discharge at the Facility in most, if not every month of the 2011-2012 Wet Season. Further, that it is likely that at least some of these storms fell during business hours. Further, SRSS observed only one storm event during the 2010-2011 Wet Season, reporting no discharge from rain events during business hours during any month except February. However, based on publicly available rainfall data, CSPA is informed and believes that this cannot possibly be true. For example, CSPA is informed and believes that there were at least two qualifying storm events that fell on the Facility in December 2010, including, but not necessarily limited to, Thursday, December 2, 2010, on which date it rained 0.2" and on Tuesday, December 14, 2010, on which date it rained 0.24."

These are only a few examples of how SRSS has failed to file completely true and accurate reports. As indicated above, SRSS has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, SRSS has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time SRSS submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. SRSS's failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. SRSS is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since January 25, 2008.

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IV. Persons Responsible for the Violations.

CSPA puts Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell under on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Party.

Our name, address and telephone number is as follows: California Sportfishing Protection Alliance, Bill Jennings, Executive Director; 3536 Rainier Avenue, Stockton, CA 95204; Phone: (209) 464-5067.

VI. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

Andrew L. Packard
Erik M. Roper
Emily J. Brand
Law Offices of Andrew L. Packard
100 Petaluma Boulevard, Suite 301
Petaluma, CA 94952

Tel. (707) 763-7227
Fax. (707) 763-9227
Email:
Andrew@PackardLawOffices.com
Erik@PackardLawOffices.com
Emily@PackardLawOffices.com

VII. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell to a penalty of up to \$32,500 per day per violation for all violations occurring after March 15, 2004, and \$37,500 per day per violation for all violations occurring after January 12, 2009, during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

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CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the Act against Santa Rosa Stainless Steel Fabricators, Inc., Mark Ferronato, Rod Ferronato, Eddie Richards and Nadine Lavell and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Jennings".

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jared Blumenfeld
Administrator, U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Eric Holder
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dorothy R. Rice, Executive Director
State Water Resources Control Board
1001 I Street Sacramento, CA 95814
P.O. Box 100
Sacramento, CA 95812-0100

Matthias St. John, Executive Officer
Regional Water Quality Control Board
North Coast Region
5550 Skylane Blvd., Ste. A
Santa Rosa, CA 95403-1072

ATTACHMENT A

Notice of Intent to File Suit, Santa Rosa Stainless Steel Fabricators, Inc. (Santa Rosa, CA)
Significant Rain Events,* January 25, 2008 – January 25, 2013

Oct. 09 2007	Jan. 23 2009	Feb. 04 2010	Dec. 31 2010
Oct. 10 2007	Feb. 05 2009	Feb. 06 2010	Jan. 01 2011
Oct. 12 2007	Feb. 06 2009	Feb. 08 2010	Jan. 02 2011
Oct. 16 2007	Feb. 08 2009	Feb. 11 2010	Jan. 13 2011
Oct. 17 2007	Feb. 10 2009	Feb. 12 2010	Jan. 29 2011
Oct. 19 2007	Feb. 11 2009	Feb. 23 2010	Jan. 30 2011
Nov. 10 2007	Feb. 13 2009	Feb. 24 2010	Feb. 14 2011
Dec. 03 2007	Feb. 14 2009	Feb. 26 2010	Feb. 15 2011
Dec. 04 2007	Feb. 15 2009	Feb. 27 2010	Feb. 16 2011
Dec. 06 2007	Feb. 16 2009	Mar. 02 2010	Feb. 17 2011
Dec. 07 2007	Feb. 17 2009	Mar. 03 2010	Feb. 18 2011
Dec. 16 2007	Feb. 22 2009	Mar. 09 2010	Feb. 24 2011
Dec. 17 2007	Feb. 23 2009	Mar. 12 2010	Feb. 25 2011
Dec. 18 2007	Feb. 25 2009	Mar. 24 2010	Mar. 01 2011
Dec. 20 2007	Mar. 01 2009	Mar. 29 2010	Mar. 02 2011
Dec. 27 2007	Mar. 02 2009	Mar. 30 2010	Mar. 05 2011
Dec. 28 2007	Mar. 03 2009	Mar. 31 2010	Mar. 06 2011
Dec. 31 2007	Apr. 07 2009	April 02 2010	Mar. 10 2011
Jan. 03 2008	Apr. 09 2009	April 04 2010	Mar. 13 2011
Jan. 04 2008	May 01 2009	April 11 2010	Mar. 15 2011
Jan. 05 2008	May 02 2009	April 12 2010	Mar. 16 2011
Jan. 06 2008	May 03 2009	April 19 2010	Mar. 18 2011
Jan. 07 2008	May 04 2009	April 20 2010	Mar. 19 2011
Jan. 08 2008	Oct. 13 2009	April 27 2010	Mar. 20 2011
Jan. 09 2008	Oct. 14 2009	May 10 2010	Mar. 22 2011
Jan. 10 2008	Oct. 15 2009	May 17 2010	Mar. 23 2011
Jan. 21 2008	Oct. 19 2009	May 25 2010	Mar. 24 2011
Jan. 24 2008	Nov. 05 2009	Oct. 17 2010	Mar. 25 2011
Jan. 25 2008	Nov. 06 2009	Oct. 23 2010	Mar. 26 2011
Jan. 26 2008	Nov. 17 2009	Oct. 24 2010	Mar. 27 2011
Jan. 27 2008	Nov. 20 2009	Oct. 25 2010	Apr. 20 2011
Jan. 31 2008	Nov. 22 2009	Oct. 28 2010	Apr. 25 2011
Feb. 01 2008	Dec. 10 2009	Oct. 29 2010	May 15 2011
Feb. 02 2008	Dec. 11 2009	Nov. 07 2010	May 16 2011
Feb. 22 2008	Dec. 12 2009	Nov. 09 2010	May 17 2011
Feb. 19 2008	Dec. 15 2009	Nov. 19 2010	May 25 2011
Feb. 21 2008	Dec. 21 2009	Nov. 20 2010	May 28 2011
Feb. 22 2008	Dec. 26 2009	Nov. 21 2010	May 31 2011
Feb. 23 2008	Dec. 27 2009	Nov. 22 2010	Jun 01 2011
Feb. 24 2008	Dec. 29 2009	Nov. 27 2010	Jun 04 2011
Mar. 28 2008	Jan. 01 2010	Dec. 02 2010	Jun 05 2011
Apr. 22 2008	Jan. 11 2010	Dec. 05 2010	Jun 28 2011
Oct. 03 2008	Jan. 12 2010	Dec. 06 2010	Oct. 03 2011
Oct. 31 2008	Jan. 16 2010	Dec. 08 2010	Nov. 09 2011
Nov. 01 2008	Jan. 17 2010	Dec. 14 2010	Dec. 04 2011
Nov. 03 2008	Jan. 18 2010	Dec. 17 2010	Dec. 06 2011
Dec. 14 2008	Jan. 19 2010	Dec. 18 2010	Dec. 07 2011
Dec. 15 2008	Jan. 20 2010	Dec. 19 2010	Dec. 15 2011
Dec. 18 2008	Jan. 21 2010	Dec. 20 2010	Jan. 19 2012
Dec. 19 2008	Jan. 22 2010	Dec. 21 2010	Jan. 20 2012
Dec. 21 2008	Jan. 23 2010	Dec. 22 2010	Jan. 21 2012
Dec. 23 2008	Jan. 24 2010	Dec. 25 2010	Jan. 22 2012
Dec. 24 2008	Jan. 25 2010	Dec. 26 2010	Jan. 23 2012
Jan. 02 2009	Jan. 29 2010	Dec. 28 2010	Feb. 07 2012

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

ATTACHMENT A

Notice of Intent to File Suit, Santa Rosa Stainless Steel Fabricators, Inc. (Santa Rosa, CA)
Significant Rain Events,* January 25, 2008 – January 25, 2013

Feb.	12	2012
Feb.	28	2012
Feb.	29	2012
Mar.	12	2012
Mar.	13	2012
Mar.	14	2012
Mar.	15	2012
Mar.	16	2012
Mar.	24	2012
Mar.	25	2012
Mar.	27	2012
Mar.	31	2012
April	10	2012
April	12	2012
April	13	2012
May	03	2012
Oct.	21	2012
Oct.	22	2012
Oct.	23	2012
Oct.	31	2012
Nov.	01	2012
Nov.	16	2012
Nov.	17	2012
Nov.	18	2012
Nov.	19	2012
Nov.	20	2012
Nov.	21	2012
Nov.	22	2012
Nov.	28	2012
Nov.	29	2012
Nov.	30	2012
Dec.	01	2012
Dec.	02	2012
Dec.	04	2012
Dec.	05	2012
Dec.	15	2012
Dec.	16	2012
Dec.	17	2012
Dec.	20	2012
Dec.	21	2012
Dec.	22	2012
Dec.	23	2012
Dec.	25	2012
Jan.	05	2013
Jan.	23	2013

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.